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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

ENVIRONMENTAL PROTECTION AGENCY
REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF

Lario Oil & Gas Company
Wichita, Kansas

Respondent

) Docket No. CWA-07-2002-0106
)
) CONSENT AGREEMENT AND
) FINAL ORDER
)
)

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency, Region VII (EPA) and Lario Oil & Gas Company, (Respondent) have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

FACTUAL ALLEGATIONS

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 311(b)(6) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (hereinafter "CWA"), 33 U.S.C. § 1321(b)(6), as amended by the Oil Pollution Act of 1990, and in accordance with the Subpart I of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation or Suspension of Permits (Administrative Proceedings Not Governed by Section 554 of the Administrative Procedures Act) 40 C.F.R. Part 22, Subpart I.

2. This Consent Agreement and Final Order serves as notice that EPA has reason to believe that Respondent has violated Section 311(b) of the CWA, 33 U.S.C. § 1321(b), and regulations promulgated thereunder and codified at 40 C.F.R. Parts 110, governing the discharge of oil.

Parties

3. The Complainant, by delegation from the Administrator of the EPA , and the Region Administrator, EPA, Region 7, is the Director of the Water, Wetlands, and Pesticides Division.
4. The Respondent is Lario Oil & Gas Company, an oil and gas exploration and production company. Respondent is incorporated in Delaware and registered to do business in the State of Kansas, and is located at 301 S. Market, Wichita, Kansas 67202.

Statutory and Regulatory Requirements

5. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), and the regulations set forth in 40 C.F.R. Part 110, prohibit the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare of the United States.
6. For purposes of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), discharges of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include discharges of oil that cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

Alleged Violations

7. Respondent is a person as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
8. Respondent was at all relevant times the "owner or operator" within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2 of the oil and gas exploration and production company in Wichita, Kansas.
9. Respondent's facility is an "onshore facility" within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).
10. On or about March 17, 1998, Respondent's Williamson Lease facility discharged crude oil into Bitter Creek a tributary to the Chikaskia River in such quantities as may be harmful pursuant to 40 C.F.R. § 110.3.
11. On or about May 5, 1999, Respondent's Bemis "F" Lease facility discharged crude oil into an unnamed creek a tributary of the Saline River in such quantities as may be harmful pursuant to 40 C.F.R. § 110.3.

12. On or about May 11, 2000, Respondent's Marshall "A" Lease facility discharged crude oil into an unnamed creek in such quantities as may be harmful pursuant to 40 C.F.R. § 110.3.
13. Bitter Creek a tributary to the Chikaskia River, the unnamed creek a tributary of the Saline River and the unnamed creek are navigable waters of the United States as defined by 40 C.F.R. § 110.1.
14. Crude oil is a form of oil as defined by Section 311(a)(1) of the CWA.
15. Respondent's March 17, 1998, May 5, 1999, and May 11, 2000, discharges of crude oil from its lease facilities caused a film or sheen upon the surface of Bitter Creek a tributary to the Chikaskia River, the unnamed creek a tributary of the Saline River, and the unnamed creek, or upon adjoining shorelines, or caused a sludge or emulsion to be deposited beneath the surface or upon its adjoining shorelines.
16. Respondent's March 17, 1998, May 5, 1999, and May 11, 2000, discharges were of such quantity that has been determined may be harmful to the public health or the welfare of the United States pursuant to Sections 311(b)(3) and (b)(4) of the CWA and 40 C.F.R. § 110.3 and therefore Respondent violated Section 311 of the CWA, 33 U.S.C. § 1321.
17. Pursuant to Section 311(b)(6)(B)(I) of the CWA and the facts stated in paragraphs 7 through 16 above, it is proposed that a civil penalty of \$10,080 be assessed against the Respondent.

CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth above.
2. Respondent neither admits nor denies the factual allegations set forth above.
3. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above.
4. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.
5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth below.
6. Respondent understands that the failure to pay any portion of the civic penalty assessed herein in accordance with the provisions of this order may result in commencement of a civil action in Federal District Court to recover the total penalty, together with interest at the applicable statutory rate.

7. Respondent agrees to pay a civil administrative penalty of Ten Thousand Eighty Dollars (\$10,080) within thirty days of entry of this Consent Agreement and Final Order.

FINAL ORDER

Pursuant to the provisions of Section 311 of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), 33 U.S.C. § 1321, as amended by the Oil Pollution Act of 1990, and based upon the information set forth in the Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Ten Thousand Eighty Dollars (\$10,080) within thirty (30) days of the entry of this Final Order. Payment shall be by cashier's or certified check made payable to the "Oil Spill Liability Trust Fund" and remitted to:

U.S. Coast Guard
Civil Penalties
P.O. Box 100160
Atlanta, GA 30384


Please include the Docket number on the front of the check to the Coast Guard.

2. A copy of the check should be sent to:

Kristina Kemp
EPA-Region VII
Office of Regional Counsel
901 North Fifth Street
Kansas City, Kansas 66101.

3. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By 
U. Gale Hutton
Director
Water, Wetlands, and Pesticides Branch

Date March 26, 2002

RESPONDENT:
Lario Oil & Gas Company

Signature E. D. Stinson
Printed E. D. Stinson
Title Vice President - Land & Legal
Date April 1, 2002

IT IS SO ORDERED. This Final Order shall become effective
immediately.

Robert Patrick
Robert Patrick
Regional Judicial Officer

Date April 5, 2002

IN THE MATTER OF Lario Oil & Gas Company, Respondent
Docket No. CWA-07-2002-0106

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristina Kemp
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail,
Return Receipt Requested, to:

Rick Stinson
Lario Oil & Gas Company
301 S. Market
Wichita, Kansas 67202

Dated: 4/9/2

Kathy White for
Kathy Robinson
Regional Hearing Clerk